

## Social Security Administration

## § 404.1592a

(d) *Who is and is not entitled to a trial work period.* (1) You are generally entitled to a trial work period if you are entitled to disability insurance benefits, child's benefits based on disability, or widow's or widower's or surviving divorced spouse's benefits based on disability.

(2) You are not entitled to a trial work period—

(i) If you are entitled to a period of disability but not to disability insurance benefits, and you are not entitled to any other type of disability benefit under title II of the Social Security Act (*i.e.*, child's benefits based on disability, or widow's or widower's benefits or surviving divorced spouse's benefits based on disability);

(ii) If you perform work demonstrating the ability to engage in substantial gainful activity during any required waiting period for benefits;

(iii) If you perform work demonstrating the ability to engage in substantial gainful activity within 12 months of the onset of the impairment(s) that prevented you from performing substantial gainful activity and before the date of any notice of determination or decision finding that you are disabled; or

(iv) For any month prior to the month of your application for disability benefits (see paragraph (e) of this section).

(e) *When the trial work period begins and ends.* The trial work period begins with the month in which you become entitled to disability insurance benefits, to child's benefits based on disability or to widow's, widower's, or surviving divorced spouse's benefits based on disability. It cannot begin before the month in which you file your application for benefits, and for widows, widowers, and surviving divorced spouses, it cannot begin before December 1, 1980. It ends with the close of whichever of the following calendar months is the earliest:

(1) The 9th month (whether or not the months have been consecutive) in which you have performed services if that 9th month is prior to January 1992;

(2) The 9th month (whether or not the months have been consecutive and whether or not the previous 8 months

of services were prior to January 1992) in which you have performed services within a period of 60 consecutive months if that 9th month is after December 1991; or

(3) The month in which new evidence, other than evidence relating to any work you did during the trial work period, shows that you are not disabled, even though you have not worked a full 9 months. We may find that your disability has ended at any time during the trial work period if the medical or other evidence shows that you are no longer disabled. See § 404.1594 for information on how we decide whether your disability continues or ends.

(f) *Nonpayment of benefits for trial work period service months.* See § 404.471 for an explanation of when benefits for trial work period service months are not payable if you are convicted by a Federal court of fraudulently concealing your work activity.

[45 FR 55584, Aug. 20, 1980, as amended at 49 FR 22273, May 29, 1984; 50 FR 50130, Dec. 6, 1985; 54 FR 53605, Dec. 29, 1989; 65 FR 42787, July 11, 2000; 65 FR 82910, Dec. 29, 2000; 71 FR 66866, Nov. 17, 2006]

### § 404.1592a The reentitlement period.

(a) *General.* The reentitlement period is an additional period after 9 months of trial work during which you may continue to test your ability to work if you have a *disabling impairment*, as defined in § 404.1511. If you work during the reentitlement period, we may decide that your disability has ceased because your work is substantial gainful activity and stop your benefits. However, if, after the month for which we found that your disability ceased because you performed substantial gainful activity, you stop engaging in substantial gainful activity, we will start paying you benefits again; you will not have to file a new application. The following rules apply if you complete a trial work period and continue to have a disabling impairment:

(1) The first time you work after the end of your trial work period *and* engage in substantial gainful activity, we will find that your disability ceased. When we decide whether this work is substantial gainful activity, we will apply all of the relevant provisions of §§ 404.1571–404.1576 including, but not

limited to, the provisions for averaging earnings, unsuccessful work attempts, and deducting impairment-related work expenses, as well as the special rules for evaluating the work you do after you have received disability benefits for at least 24 months. We will find that your disability ceased in the first month after the end of your trial work period in which you do substantial gainful activity, applying all the relevant provisions in §§ 404.1571-404.1576.

(2)(i) If we determine under paragraph (a)(1) of this section that your disability ceased during the reentitlement period because you perform substantial gainful activity, you will be paid benefits for the first month after the trial work period in which you do substantial gainful activity (*i.e.*, the month your disability ceased) and the two succeeding months, whether or not you do substantial gainful activity in those succeeding months. After those three months, we will stop your benefits for any month in which you do substantial gainful activity. (See §§ 404.316, 404.337, 404.352 and 404.401a.) If your benefits are stopped because you do substantial gainful activity, they may be started again without a new application and a new determination of disability if you stop doing substantial gainful activity in a month during the reentitlement period. In determining whether you do substantial gainful activity in a month for purposes of stopping or starting benefits during the reentitlement period, we will consider only your work in, or earnings for, that month. Once we have determined that your disability has ceased during the reentitlement period because of the performance of substantial gainful activity as explained in paragraph (a)(1) of this section, we will not apply the provisions of §§ 404.1574(c) and 404.1575(d) regarding unsuccessful work attempts, the provisions of § 404.1574a regarding averaging of earnings, or the special rules in §§ 404.1574(b)(3)(iii) and 404.1575(e) for evaluating the work you do after you have received disability benefits for at least 24 months, to determine whether benefits should be paid for any particular month in the reentitlement period that occurs after the month your disability ceased.

(ii) If anyone else is receiving monthly benefits based on your earnings record, that individual will not be paid benefits for any month for which you cannot be paid benefits during the reentitlement period.

(3) The way we will consider your work activity after your reentitlement period ends (see paragraph (b)(2) of this section) will depend on whether you worked during the reentitlement period and if you did substantial gainful activity.

(i) If you worked during the reentitlement period and we decided that your disability ceased during the reentitlement period because of your work under paragraph (a)(1) of this section, we will find that your entitlement to disability benefits terminates in the first month in which you engaged in substantial gainful activity after the end of the reentitlement period (see § 404.325). (See § 404.321 for when entitlement to a period of disability ends.) When we make this determination, we will consider only your work in, or earnings for, that month; we will not apply the provisions of §§ 404.1574(c) and 404.1575(d) regarding unsuccessful work attempts, the provisions of § 404.1574a regarding averaging of earnings, or the special rules in §§ 404.1574(b)(3)(iii) and 404.1575(e) for evaluating the work you do after you have received disability benefits for at least 24 months.

(ii) If we did not find that your disability ceased because of work activity during the reentitlement period, we will apply all of the relevant provisions of §§ 404.1571-404.1576 including, but not limited to, the provisions for averaging earnings, unsuccessful work attempts, and deducting impairment-related work expenses, as well as the special rules for evaluating the work you do after you have received disability benefits for at least 24 months, to determine whether your disability ceased because you performed substantial gainful activity after the reentitlement period. If we find that your disability ceased because you performed substantial gainful activity in a month after your reentitlement period ended, you will be paid benefits for the month in which your disability ceased and the two succeeding months. After those

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three months, your entitlement to a period of disability or to disability benefits terminates (see §§ 404.321 and 404.325).

(b) *When the reentitlement period begins and ends.* The reentitlement period begins with the first month following completion of 9 months of trial work but cannot begin earlier than December 1, 1980. It ends with whichever is earlier—

(1) The month before the first month in which your impairment no longer exists or is not medically disabling; or

(2)(i) The last day of the 15th month following the end of your trial work period if you were not entitled to benefits after December 1987; or

(ii) The last day of the 36th month following the end of your trial work period if you were entitled to benefits after December 1987 or if the 15-month period described in paragraph (b)(2)(i) of this section had not ended as of January 1988. (See §§ 404.316, 404.337, and 404.352 for when your benefits end.)

(c) *When you are not entitled to a reentitlement period.* You are not entitled to a reentitlement period if:

(1) You are entitled to a period of disability, but not to disability insurance cash benefits;

(2) You are not entitled to a trial work period;

(3) Your entitlement to disability insurance benefits ended before you completed 9 months of trial work in that period of disability.

[49 FR 22273, May 29, 1984, as amended at 58 FR 64883, Dec. 10, 1993; 65 FR 42787, July 11, 2000; 71 FR 66856, Nov. 17, 2006]

### § 404.1592b What is expedited reinstatement?

The expedited reinstatement provision provides you another option for regaining entitlement to benefits when we previously terminated your entitlement to disability benefits due to your work activity. The expedited reinstatement provision provides you the option of requesting that your prior entitlement to disability benefits be reinstated, rather than filing a new application for a new period of entitlement. Since January 1, 2001, you can request to be reinstated to benefits if you stop doing substantial gainful activity within 60 months of your prior termination.

You must not be able to do substantial gainful activity because of your medical condition. Your current impairment must be the same as or related to your prior impairment and you must be disabled. To determine if you are disabled, we will use our medical improvement review standard that we use in our continuing disability review process. The advantage of using the medical improvement review standard is that we will generally find that you are disabled unless your impairment has improved so that you are able to work or unless an exception under the medical improvement review standard process applies. We explain the rules for expedited reinstatement in §§ 404.1592c through 404.1592f.

[70 FR 57142, Sept. 30, 2005]

### § 404.1592c Who is entitled to expedited reinstatement?

(a) You can have your entitlement to benefits reinstated under expedited reinstatement if—

(1) You were previously entitled to a disability benefit on your own record of earnings as indicated in § 404.315, or as a disabled widow or widower as indicated in § 404.335, or as a disabled child as indicated in § 404.350, or to Medicare entitlement based on disability and Medicare qualified government employment as indicated in 42 CFR 406.15;

(2) Your disability entitlement referred to in paragraph (a)(1) of this section was terminated because you did substantial gainful activity;

(3) You file your request for reinstatement timely under § 404.1592d; and

(4) In the month you file your request for reinstatement—

(i) You are not able to do substantial gainful activity because of your medical condition as determined under paragraph (c) of this section;

(ii) Your current impairment is the same as or related to the impairment that we used as the basis for your previous entitlement referred to in paragraph (a)(2) of this section; and

(iii) You are disabled, as determined under the medical improvement review standard in §§ 404.1594(a) through (e).

(b) You are entitled to reinstatement on the record of an insured person who is or has been reinstated if—